Notice of Allowability	Application No.	Applicant(s)
	10/627,484	KOCHAT ET AL.
	Examiner	Art Unit
	Taylor Victor Oh	1625
The MAILING DATE of this communication appears on the cover sheet with the correspondence address All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.  1. This communication is responsive to 4/28/05.  2. The allowed claim(s) is/are 1 and 3-6.  3. The drawings filed on are accepted by the Examiner.		
<ul> <li>4.</li></ul>		
<ul> <li>Attachment(s)</li> <li>1. ☐ Notice of References Cited (PTO-892)</li> <li>2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)</li> <li>3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08 Paper No./Mail Date 4/28/05</li> <li>4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material</li> </ul>	6. ⊠ Interview Summary ( Paper No./Mail Date B), 7. ⊠ Examiner's Amendm	e <u>8/18/05</u> .

## Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 4/13/05 has been entered.

## Examiner's Amendment and Reasons of Allowance

## The Status of Claims

Claims 1 and 3-6 are pending.

Claims 1 and 3-6 have been allowed.

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with an attorney of record, Mr. Alan Nadel (Reg# 27363) on 8/18/05.

I. The application has been amended as follows:

" claim 1 ".

In claim 3, line 1 on page 2 (amendment dated on 4/13/05):

The term "--claim 2 --" before the word "wherein" has been replaced with

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II. The following is an examiner's statement of reasons for allowance:

■ The close reference for the current invention is Ezquerra et al(Tetrahedron: Asymmetry (1994), 5(5), p. 921-6).

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Ezquerra et al discloses the process of preparing 4-methylene-L-glutamic acid in the following steps:

- a. reacting a solution of  $(Me_3Si)_2NH$  in dry THF and a solution of ethyl N-Boc-pyroglutamate at -78  $^{0}$ C and allowing the reaction mixture at room temperature, and further hydrolyzing the resultant solution with water;
- b. reducing ethyl-1-(tert-butoxycarbonyl)-4 (dimethylaminomethyl)pyroglutamate in the presence of NaHCO<sub>3</sub> at room temperature;
- c. hydrolyzing ethyl-1-(tert-butoxycarbonyl)-4(methylene)pyroglutamate in the presence of lithium hydroxide in
  THF followed by treatment of HCI in ETOAC at room
  temperature.

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The instant invention, however, differs from the prior art in that the claimed

starting compound is

,whereas the prior art starting

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compound is Boc (1); in the prior art, there is no reaction between the starting

compound and the amide or the acetal at a temperature of from 70° C to 130° C. Therefore, the claimed process and the prior art process are completely different from each other. In addition, unless all limitations of the claims are met, there is no prior art rejection. See In re Zurko 59 USPQ 2d 1690 (Fed Cir. 1991) and In re Lee, 61 USPQ 1430 (Fed Cir. 1991).

Therefore, the claimed invention would not have been obvious to the person with an ordinary skill in the art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning the communication after allowance such as sending all post-allowance correspondence should be directed to "Box Issue Fee" or faxed directly to PUBS at 703-305-8755. This will expedite the process of these papers.

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